

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RUSSELL EWING MCKINNON,)
Petitioner,)
v.) NO. 3:06-0409
UNITED STATES OF AMERICA,) Judge Trauger/Brown
Respondent.)

TO: The Honorable Aleta A. Trauger

REPORT AND RECOMMENDATION

I. INTRODUCTION

For the reasons stated below, the Magistrate Judge stands by his original Report and Recommendation (Docket Entry No. 6) in this matter that the petitioner's § 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence, be **denied**.

II. DISCUSSION

The Magistrate Judge originally filed his Report and Recommendation that the motion be denied on June 14, 2006 (Docket Entry No. 6). The petitioner then filed a reply requesting an opportunity to file a reply to the Government's response to his § 28 U.S.C. § 2255 petition (Docket Entry No. 7). The District Judge granted the petitioner until July 24, 2006, to file additional pleadings and recommitted the Report and Recommendation to the undersigned for reconsideration, in light of the filing of the petitioner's reply (Docket Entry No. 8). As of the date of this

new Report and Recommendation, the petitioner has not filed any further pleadings with the Court.

III. RECOMMENDATION

The Magistrate Judge therefore sees no reason to change his original recommendation in this matter, and accordingly **recommends** that the original Report and Recommendation (Docket Entry No. 6) be approved.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985), reh'q denied, 474 U.S. 1111 (1986).

ENTERED this 28th day of July, 2006.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge